

201 KAR 20:410. Expungement of records.

RELATES TO: KRS 314.131

STATUTORY AUTHORITY: KRS 314.131(1), (9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) and (9) authorize the Board of Nursing to promulgate administrative regulations to establish which disciplinary records may be expunged. This administrative regulation establishes which records may be expunged and the procedure for expungement.

Section 1. Definition. "Expungement" means that all affected records shall be sealed and that the proceedings to which they refer shall be deemed never to have occurred.

Section 2. A nurse whose record has been expunged may properly reply that disciplinary records do not exist upon inquiry.

Section 3. Upon a request from a nurse against whom disciplinary action has been taken, the board shall expunge records relating to the following categories of disciplinary action:

(1) Consent decrees that are at least five (5) years old if all the terms of the consent decree have been met.

(2) Agreed orders and decisions that are at least ten (10) years old and which concern one (1) or more of the following categories, if there has not been subsequent disciplinary action and all of the terms of the agreed order or decision have been met:

(a) Failed to timely obtain continuing education or AIDS education hours;

(b) Paid fees that were returned unpaid by the bank; or

(c) Practiced as a nurse or advanced practice registered nurse without a current license, provisional license, or temporary work permit.

(3) Agreed orders and decisions that are at least ten (10) years old and which resulted in a reprimand, if there has not been subsequent disciplinary action and all of the terms of the agreed order or decision have been met.

(4) Agreed orders and decisions that are at least twenty (20) years old, if there has not been subsequent disciplinary action and all of the terms of the agreed order or decision have been met.

Section 4. The board shall not report cases that have been expunged to another state agency, other board of nursing, or other organization. (22 Ky.R. 418; eff. 9-20-95; 29 Ky.R. 1306; eff. 1-15-03; 35 Ky.R. 317; 781; eff. 10-15-08; TAm eff. 7-15-2010; 38 Ky.R. 1190; 1440; eff. 2-15-12.)